



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

ERP, RP, MNDC, FF

Introduction

This was an application by the tenant for a monetary order and for the landlord to make repairs. The hearing was conducted by conference call.

The applicant tenant participated in the hearing. The undisputed testimony of the tenant is that they personally served the landlord with the application and Notice of Hearing on April 10, 2013. The landlord did not attend the conference call hearing.

This hearing did not have benefit of document evidence to this matter, but claims they provided the landlord with document evidence.

Issue(s) to be Decided

Is the tenant entitled to a monetary order in the amount claimed?
Should the landlord be ordered to make repairs?

Background and Evidence

The undisputed testimony of the tenant is that the tenancy started in July 2012 as a written 3 year fixed term tenancy. Rent payable is \$1300 per month.

The tenant claims that their refrigerator has not been operating properly for 5-6 months and that they alerted the landlord to this issue at the outset of the problem. They claim the landlord said they would attend to it but has not. The tenant claims the refrigerator's operation is sporadic and as a result some of their food spoils before its usable date. The tenant claims they expend \$200-\$300 per month on perishable and refrigerable

groceries and some of them are routinely compromised due to lack of reliable refrigeration. The tenant seeks a repair or replacement of the refrigerator and to be compensated for food spoilage.

In addition, the tenant testified that the windows of the rental unit appear to have compromised seals and that a quantum of mould tends to generate around the windows and can negatively affect the tenant's health. The tenant testified that they control / mitigate the mould with an inhibiting product, but, especially in wetter months the mould eventually returns – if left untreated. The tenant seeks for the landlord to be compelled to replace the windows.

Analysis

I accept the tenant's undisputed testimony. However, in the absence of supporting evidence upon which the tenant seeks to rely I find that some of the tenant's claims are not compensable at this time. I find that in the absence of evidence respecting the need for new windows I am not satisfied if the proposed remedy of window replacement is the reasonable resolve. I accept the issue is controllable and to that end it may be the reasonable resolve to this matter. As a result, **I dismiss** this portion of the tenant's claim with leave to reapply.

I accept the tenant's undisputed testimony in respect to the rental unit refrigerator. I find that the landlord is responsible for the appliances of the tenancy agreement and that the tenant is entitled to an appropriately functioning refrigerator. As a result,

I Order that the landlord repair or replace the rental unit refrigerator within 15 days of the date of this Decision.

If the landlord does not satisfy this Order the tenant is at liberty to seek further compensation as a result.

I accept the tenant's undisputed testimony in respect to seeking compensation for food spoilage over the past 5-6 months. I find the tenant's monetary claim is extravagant. However, on balance of probabilities, I accept the tenant's testimony that some of their food has been spoiled by the lack of adequate or absent refrigeration. I find it reasonable that the landlord should or ought to have repaired or replaced the refrigerator within 45 days of having been alerted to the problem. As a result, **I grant** the tenant set compensation for food spoilage in the limited amount of **\$600.00**.

The tenant is entitled to recover the \$50 filing fee paid for their application for a total monetary award of **\$650.00**.

Conclusion

The tenant's application, in part has been granted.

The landlord has been **Ordered** to repair or replace the refrigerator.

In satisfaction of the monetary award **I Order** the tenant may **deduct \$650.00** from a future rent.

This Decision is final and binding on both parties.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: May 06, 2013

Residential Tenancy Branch